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Retail & Leisure Property Specialists

## C&P

### PLANNING POLICY STATEMENT 4: PLANNING FOR SUSTAINABLE ECONOMIC GROWTH

The Department of Communities and Local Government issued PPS 4: *Planning for Sustainable Economic Growth*, on 29<sup>th</sup> December. It follows consultation on a draft in the summer and sets out the Government's policy framework for planning for all forms of economic development in both urban and rural areas. The PPS incorporates the advice previously included in PPS6: Planning for Town Centres, and also replaces the advice on economic development previously contained in PPG4: Industrial, Commercial Development and Small Firms, PPG5: Simplified Planning Zones and the economic development sections of PPS7: Sustainable Development in Rural Areas.

#### Overview

The Statement is designed to set out the Government's policy towards all forms of economic development. However, the majority of the policies in the PPS, and the Practice Guidance that has also been issued to accompany it, focus on retail and 'town centre' uses.

PPS4 emphatically restates the government's long-standing 'town centres first' policy and seeks to ensure that the planning system continues to promote the vitality, viability and the unique character of town centres over other locations. It also retains the 'sequential test', giving priority to town centres as the preferred location for shops, leisure and office uses.



As widely expected PPS4 replaces the 'need test' with a tougher impact test to control any development that might harm the vitality and viability of existing town centres.

In preparing LDF's local authorities are required to plan positively for sustainable economic growth and seek to promote both consumer choice and retail diversity.

The proposed competition test for future supermarket development is not included in the new PPS4. The press release accompanying the Statement indicates that the Government intends to formally respond to the Commission's recommendations for such a test "shortly".

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Chase & Partners believe that the form of the new PPS - comprising 19 policies dealing with Evidence, Plan Making, Monitoring, and Development Management makes it both more usable, and shorter, than PPS6 and the other policy guidance the Statement now replaces. However, given the Statement is now supplemented by the 100-pages of Practice Guidance on need, impact and sequential approach, we believe that, collectively, this has done little to 'streamline' the process in the way the Government may wish to claim.

Much of the redrafting has been helpful; it has made the Statement less repetitive and more coherent than the draft. However, there are a number of subtle – but potentially important – differences between the draft and the final version. These will, in our view, have implications for local planning authorities preparing Local Development Frameworks, and establish a rigid policy framework within which all planning applications for retail and 'town centre' development will be assessed in the future. These changes are highlighted below:

- **The 'pro-development' wording of the draft has been diluted**

Many commentators believed that, as a response to the economic downturn, the draft PPS advocated a more positive approach towards all forms of 'economic' development – including retailing. Some even suggested that it encouraged authorities to adopt a less dogmatic approach towards out-of-centre development and give greater weight to the economic and employment benefits arising from new development.

The decision-making policies in the draft certainly encouraged planning authorities to give additional to weight to the economic benefits arising from new development. For instance draft policy EC12 was quite explicit; it stated:

*"where a planning application for economic development, including for main town centre uses, is in accordance with the development plan it should normally be approved."*

The equivalent policy in the final version only indicates that planning applications that secure sustainable economic growth should be "treated favourably".

Similarly, draft policy EC21.1 (3) also required local planning authorities to "consider favourably" proposals for economic development where identified impacts are not significant and are outweighed by wider benefits – including economic benefits. The weight given to these economic benefits is now omitted. The equivalent policy EC17.2 merely requires that "the positive and negative impacts of the proposal" are considered. Equal weight is therefore given to both.



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- **Pre-eminence of the 'sequential approach' towards development**

There was some debate amongst professionals regarding the wording of the decision making policies in draft PP4 and whether they gave pre-eminence to applicants satisfying the 'sequential test' before all other considerations.

PPS6 has always required applicants proposing retail development outside town centres to demonstrate that there are no more 'sequentially preferable' sites available which might accommodate the development. However, it was left to local planning authorities in making any decision to apportion weight to this assessment alongside other policy considerations.

Policy EC17.1 of PPS4 is now unequivocal – it clearly states that:

*"Planning applications for main town centre uses that are not in an existing centre and not in accordance with an up to date development plan should be refused planning permission where:*

- a. the applicant has not demonstrated compliance with the requirements of the sequential approach...."*

(C&P emphasis)

It is clear that local planning authorities are now required to refuse planning permission for any proposal if a 'sequentially preferable' site exists. On the face of it all other tests or material considerations are now irrelevant if this test is not satisfied.

- **Need**

Much has been made about the Government abandoning the requirement

for developers and retailers to demonstrate 'need' for retail proposals. The Government itself now calls the test "dysfunctional" and claims it may have unintentionally stifled diversity and consumer choice in the past.

Although an assessment of need remains part of the plan-making process, the 'need test' has, on the face of it, been removed from the decision making policies in the Statement. In practice however, it has simply been renamed and incorporated into the expanded impact test contained in Policy EC16. This requires an assessment of impact upon *"in-centre trade/turnover and on trade in the wider area, taking account of current and future consumer expenditure capacity..."* Thus, in our view, the word "need" has simply been replaced by the phrase "future consumer expenditure capacity"; in short it is the same old test in a different guise.

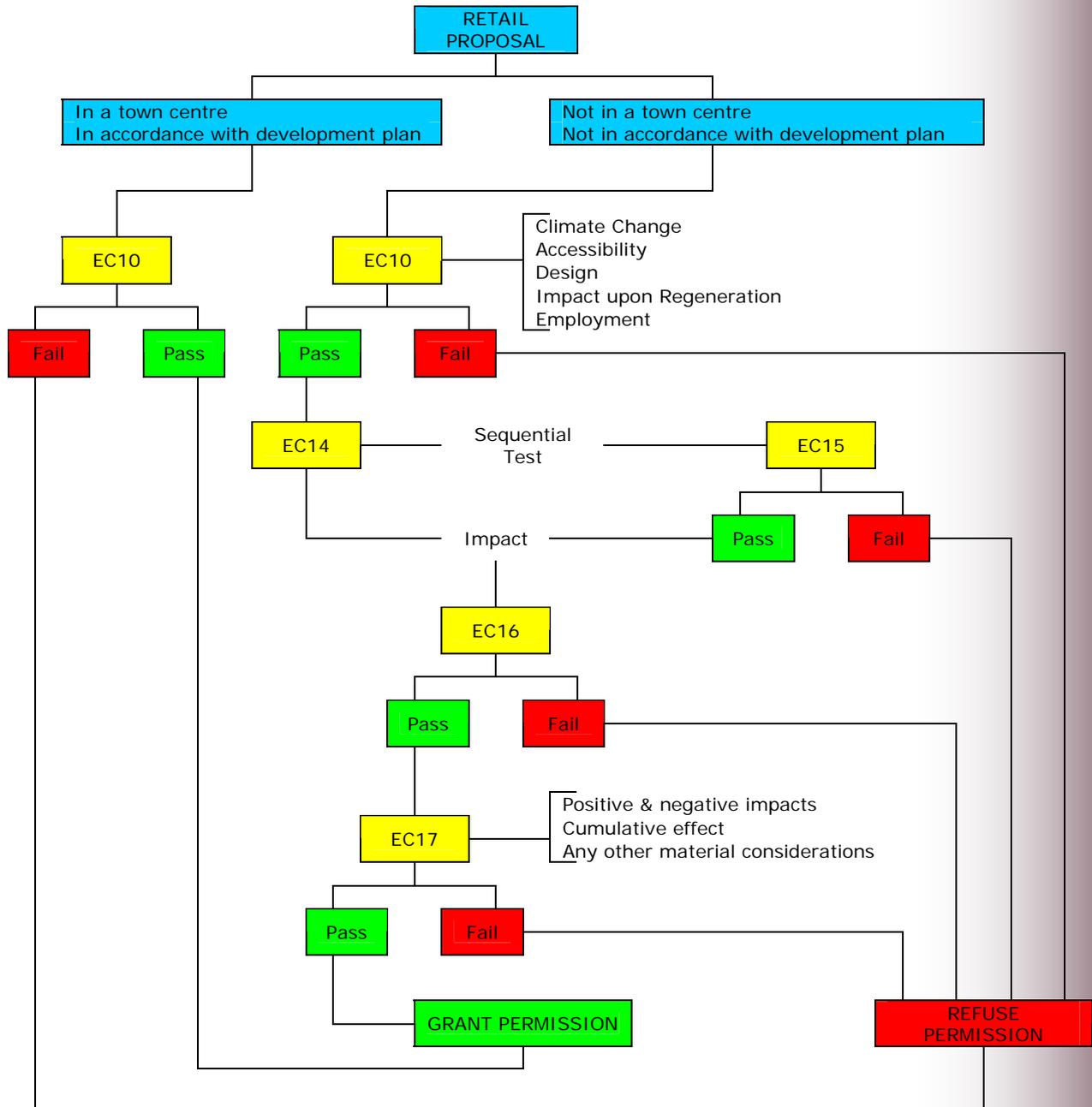


The flowchart overleaf outlines the process and the retail policies in PPS4 that retail applications will now have to negotiate in order to secure planning consent.

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### FLOWCHART FOR A RETAIL PROPOSAL UNDER PPS4



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- **An additional policy test?**

As well as 'watering down' the weight to be given to the economic benefits of development, PPS4 may have also created an additional policy test.

Policy EC17 specifically sets out how planning applications outside town centres - and not in accordance with the development plan - should be considered. It clearly states that if the proposal does not satisfy the sequential test, or if there are significant adverse impacts, the application should be refused. Even when these tests are satisfied, planning applications can only be determined having regard to "the positive and negative impacts of the proposal" (as identified by the impact test); "the cumulative effect of recent permissions, developments under construction and completed developments"; as well as "any other material considerations".

It might therefore be argued that if any adverse effects were identified as part of the impact assessment, then they should be given just as much weight as the positive benefits arising from the proposal.

Moreover, Policy EC17.3 provides further advice on how the extent and significance of any such impacts should be judged. It notes that the development plan, together with assessments of vitality and viability and "published local information (such as a town centre or retail strategy), will also be relevant." As a result the potential significance of any identified effects could be based on almost any local authority document – irrespective of the extent to which it may have been the subject of consultation or community engagement.

Overall, Chase & Partners believe that the new PPS is unlikely to materially affect development proposals located in town centres that are in accordance with either an adopted or emerging development plan. On the other hand, in all other cases the PPS has 'upped the ante'. Where applicants are proposing developments outside designated town centres and/or when the sites are not identified for economic development in a development plan, then the policy framework has become more complex. Local Authorities' armoury against development outside town centres and not in accordance with the development plan has, undoubtedly, been enhanced.

The new Statement, together with the Practice Guidance on need, impact and the sequential approach can be accessed at:

<http://www.communities.gov.uk/publications/planningandbuilding/planningpolicystatement4>

**If you would like to discuss the Policy Statement and its potential implications for your activities then please contact either Huw Williams or Stephen Rose at Chase & Partners on the number below or email: [hpw@chaseandpartners.co.uk](mailto:hpw@chaseandpartners.co.uk)**

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